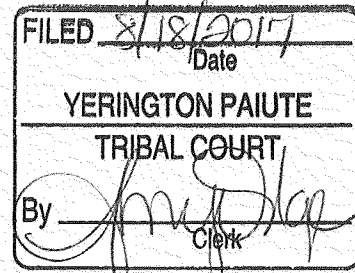


Case Number: YCV 10-17



YERINGTON PAIUTE TRIBAL COURT

Yerington Paiute Tribe,

Plaintiff,

COMPLAINT

-vs-

BP America, Inc., and Atlantic Richfield Company,

Defendants.

COMPLAINT

Plaintiff Yerington Paiute Tribe, by its attorneys, brings this civil action on its own behalf and on behalf of its Tribal members, to obtain compensatory and punitive damages, and costs of suit, from the named Defendants, and alleges as follows:

NATURE OF ACTION

1. BP America, Inc. and Atlantic Richfield Company are jointly and severally liable to Plaintiff for the acts and omissions detailed herein, causing property damage and health and safety injuries and risks on Tribal land.

2. In 2013, Defendants agreed to pay nearly \$20 million to settle the claims of a class of non-Indians relating to the very conduct and claims alleged in this Complaint. Yet Defendants have done nothing for Plaintiff except hand out bottled water to Tribal members. To this day,

1 Tribal property is damaged and devalued, Tribal water is contaminated, and the health and safety
2 of Tribal members has been compromised and remains at risk.

3 JURISDICTION

4 3. This Court has proper subject matter jurisdiction and venue because, *inter alia*, the
5 claims herein arose on Plaintiff's land, and/or because the acts and omissions giving rise to the
6 claims threaten or have a direct impact on the political integrity, economic security, and/or
7 health, safety and welfare of the Tribe, imperiling the subsistence of the Tribe.

8 PARTIES

9 4. Plaintiff Yerington Paiute Tribe is a federally-recognized Indian Tribe headquartered
10 at 171 Campbell Lane, Yerington, NV 89447.

11 5. Defendant Atlantic Richfield Company ("ARCO") is a corporation organized and
12 existing under the laws of Delaware. ARCO is the successor corporation to Anaconda Company
13 ("Anaconda"), which owned and operated the Yerington Anaconda Mine Site (the "Mine Site")
14 in Yerington, Nevada beginning in 1941. In or about 1977, ARCO acquired Anaconda and
15 assumed its operations at the Mine Site. ARCO owned and operated the Mine Site from 1977 to
16 1982.

17 6. Defendant BP America, Inc., ("BP") is a corporation organized and existing under the
18 laws of Delaware. BP directly or indirectly purchased and/or acquired ARCO on March 3, 1999.
19 As a result of such merger and/or acquisition of ARCO, BP assumed liability for all claims
20 which could have been brought against ARCO. For purposes of this action, the allegations and
21 claims against ARCO are also allegations and claims against BP as its successor.
22

23 FACTUAL ALLEGATIONS

24 7. Plaintiff seeks compensatory and punitive damages suffered as a result of Defendants
25 acts and omissions in regard to toxic and hazardous substances on and around the site of
26 Defendants' former copper mine and ore processing facility located in the Mason Valley, Lyon
27 County, Nevada (herein, the "Mine Site"). Defendants' acts and omissions giving rise to this suit
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1 include, *inter alia*, the wrongful handling, processing, emission, release, processing and storage
2 of toxic and hazardous substances, and the failure to properly identify, remove and remediate
3 said substances.

4 8. Metals, radioactive materials, and other toxic and hazardous substances have been and
5 are being released into the environment from the Defendants' Mine Site, sections of which are on
6 Plaintiff's property. These substances include uranium, arsenic, lead, mercury, thorium, radium,
7 chloride, sulfate, chromium, iron, aluminum, copper, manganese, molybdenum, nickel, selenium,
8 and zinc. These substances have been and are entrained in dust that affects Plaintiff, and have
9 been and are found in Plaintiff's surface water, as wells as groundwater that migrates beneath
10 and around Plaintiff's property and water supply.

11 9. Furthermore and in particular, the Wabuska Drain, an irrigation drain that received
12 wastewater from the Mine Site, runs directly through Plaintiff's property for approximately 1.7
13 miles. That contaminated wastewater has run across Plaintiff's property for decades, and
14 continues to damage and devalue Plaintiff's property, and compromise and risk the health and
15 safety of Tribal members.

16 10. Furthermore and in particular, Defendants' acts and omissions effectively destroyed
17 Plaintiff's wetlands and negatively impacted agriculture and wildlife on and around Plaintiff's
18 property. To this day, tail water emanating from the Mine Site into the wetlands is toxic and
19 hazardous. Tribal wetlands and irrigation have been decimated by Defendants' contamination of
20 both groundwater and surface water.

21 11. By way of background, the Mine Site was an open pit copper mine and ore
22 processing facility encompassing over 3500 acres in Yerington, Nevada. Large scale operations
23 began in 1918 and continued until January 2000. The principal operator was Anaconda Mining
24 Company, which acquired the Mine Site in 1952 after having leased it for the decade prior.
25 Anaconda was eventually purchased by/merged with Defendant Atlantic Richfield Company,
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1 who also acquired Anaconda's liabilities. When Defendant BP America, Inc. acquired Atlantic
2 Richfield, it acquired those same liabilities.

3 12. During its operation, Anaconda removed approximately 360 million tons of ore and
4 debris from the open pit mine, much of which now remains in tailings or leach heap piles.
5 Anaconda also used disposal pond for tailings. At one time, these ponds occupied more than
6 one-third of the Mine Site, along with a 180-acre pit lake approximately one mile long, 800 feet
7 deep with 500 feet of water, which contains approximately 40,000 acre-feet of water that
8 continues to increase annually.

9 13. Those tailing piles and disposal ponds/pit lakes contaminated the groundwater that
10 eventually ran out from under and off of the Site. This is in addition to the contaminated water
11 sent down through the Wabuska Drain and across Plaintiff's land.

12 14. Groundwater contamination was identified at the Mine Site as early as the late
13 1970's, when the U.S. Geological Survey ("USGS") described a groundwater plume of arsenic,
14 cadmium, cobalt, copper, iron, lead, manganese, mercury, molybdenum, selenium, and zinc
15 below the site and migrating northward. A geological survey conducted by the United States
16 Department of Interior in 1982 confirmed contamination of shallow ground water at the Mine
17 Site and concluded that "deeper ground water nearest the waste-disposal ponds has deteriorated
18 appreciably in quality." See Geological Survey, Open-File Report 80-1217, 1982.

19 20 15. As further examples, the Nevada Division of Environmental Protection ("NDEP")
21 issued its first Finding of Violation to Defendant Atlantic Richfield Company in 1982 for
22 groundwater pollution associated with the Mine Site. In 1985, NDEP issued another
23 administrative order to Defendant Atlantic Richfield Company to remediate groundwater
24 contamination in the vicinity of the Mine Site tailings area. In 1999, an NDEP/EPA analysis
25 indicated excessive amounts of arsenic, cadmium and nickel in groundwater on and off the Mine
26 Site. This was confirmed repeatedly over the next few years, and in 2003, various governmental
27 agencies expressed concern that both groundwater and soil were contaminated.
28

1 16. In 2010, the United States Environmental Protection Agency ("USEPA")
2 acknowledged for the first time that private water supply wells located off of the Mine Site have
3 been impacted by contamination from the Mine Site. And just this past September, the EPA
4 published a proposed rule in the Federal Register to add the Mine Site to the NPL list, due to the
5 need for closure and the comprehensive cleanup of heap leach pads and ponds, process areas,
6 and off-Site groundwater contamination.

7 17. Nevertheless, despite these indications and the issuance of certain and numerous
8 administrative violations and Orders concerning contamination from the Mine Site, Defendants
9 have failed for decades to address the damage caused to Plaintiff, or to properly remediate the
10 Mine Site and to prevent the continuing release, discharge and migration of toxic and hazardous
11 substances.

12 18. As a result, a groundwater plume exists under the Mine Site and has migrated offsite
13 to surrounding properties. Nearly 400,000 acre feet of the groundwater plume is contaminated
14 with the toxic and hazardous substances listed above, including an estimated 95 *tons* of uranium.
15 Moreover, the aquifer is contaminated with acidic process waters and metals from the process
16 areas, unlined evaporation ponds, and leaking heap-leach pads and tailings piles. The
17 intermediate and deep aquifers are interconnected, and have also been contaminated.

18 19. Defendants have also contaminated domestic wells beyond the Mine Site with certain
19 toxic and hazardous substances including arsenic, gross alpha radiation, and uranium, all at
20 levels exceeding regulatory limits and/or safe amounts. Exposure to uranium can cause cancer
21 and kidney toxicity. Exposure to arsenic can cause skin and lung cancer, liver cancer, bladder
22 cancer, kidney cancer, cancer of the nasal passages, and prostate cancer. Such exposure can also
23 cause skin lesions, peripheral neuropathy, anemia, thickening and discoloration of skin, stomach
24 pain, nausea, vomiting, diarrhea, and liver effects as well as cardiovascular, pulmonary,
25 immunological, neurological, reproductive, and endocrine system effects. Numerous other toxic
26 and hazardous substances listed above can cause similar health risks and impacts.

1 20. Localized groundwater is the sole source of drinking water for Plaintiff, and
2 groundwater is used to supplement surface water for irrigation.

3 21. Additionally, Plaintiff's property and its Tribal members have been exposed to
4 hazardous dust emanating from the Mine Site. Defendants' improper storage and disposal of
5 toxic and hazardous substances at the Mine Site contributes to chronic and uncontrolled
6 emissions of particulates containing pollutants and hazardous substances that blow off-site and
7 onto Plaintiff's property, constituting at least a nuisance, and/or proximately causing a continuing
8 threat to Tribal members' health and environment.

9 22. Toxic and hazardous substances have contaminated, and continue to contaminate, soil,
10 sediment, air, water treatment facility waste, groundwater, and surface water, so that Plaintiff is,
11 and continues to be, exposed through inhalation, dermal contact, absorption, consumption and
12 ingestion. The ongoing presence of toxic and hazardous substances has impacted Plaintiff's
13 property, and deprived Plaintiff of the free use and enjoyment of same. Furthermore, these toxic
14 and hazardous substances pose health risks and threats including cancer, neurological damage,
15 and kidney and liver damage, as well as developmental behavior and learning problems. As a
16 result of Defendants' failure to properly remediate toxic and hazardous substances, Tribal
17 members are at risk of developing these and other serious latent diseases, along with myriad
18 other adverse medical conditions.
19

20 CAUSES OF ACTION

21 A. Strict Liability

22 23. Plaintiff repeats and realleges each and every allegation contained in the preceding
23 paragraphs of this Complaint, as if fully set forth herein.
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25 24. Defendants, by manufacturing, generating, discharging, using, releasing and
26 dispersing toxic contaminants and hazardous pollutants into a populated rural area and by failing
27 to properly remediate and allowing those contaminants and pollutants to remain in the
28 environment, and/or concealing knowledge of same, have engaged in abnormally dangerous,

1 ultra-hazardous, and inherently or intrinsically dangerous activities for which they are strictly
2 liable to Plaintiff.

3 25. Defendants' activities pose a high degree of risk of harm to Plaintiffs, as Defendants'
4 exposed Plaintiffs and Tribal members to highly toxic and hazardous substances, that said toxic
5 and hazardous substances present serious health risks, and that Defendants' actions and inaction
6 continues to cause contamination in soil, dust, air, groundwater and surface water at levels higher
7 than acceptable limits. Plaintiff and Tribal members have been contaminated with these toxic
8 and hazardous substances through inhalation, dermal contact and ingestion, including
9 consumption of contaminated groundwater.

10 26. The risks posed by Defendants' activities could not be eliminated by the exercise of
11 reasonable care and no safe way exists to dispose of toxic waste by simply dumping it onto land
12 or into water in such a residential area. There is no safe way to dispose of toxic and hazardous
13 substances in and around the Mine Site, which is located in part on, and generally in direct
14 proximity to, Plaintiff's property. The serious health and environmental risks posed by said toxic
15 and hazardous substances that Defendants disposed of on and around Plaintiff's property, and
16 failed to properly remediate, clearly could not have been eliminated by the exercise of reasonable
17 care on the part of Defendants.

18 27. Defendants' disposal of toxic and hazardous substances near and around Plaintiff's
19 property was neither a matter of common usage nor appropriate to the place where it was carried
20 out. Defendants' failure to properly remediate toxic and hazardous substances which they
21 disposed of on and around Plaintiff's property was neither a matter of common usage nor
22 appropriate to the place where it was carried out.

23 28. The value of the disposal of dangerous toxic waste, if any, is substantially
24 outweighed by the serious health and environmental problems caused by them.
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1 29. As a direct and proximate result of Defendants' misconduct as set forth herein,
2 Plaintiff and Tribal members have suffered and continue to suffer economic losses, such as costs
3 of medical monitoring and the loss of value to their property, and other damages.

4 30. Strict liability for the accumulation, escape, percolation, or disposal of toxic and
5 hazardous substances and wastes is especially appropriate. Defendants are jointly and severally
6 liable to Plaintiff for their acts and/or omissions.

7 31. At all relevant times Defendants caused injury and damages to Plaintiff and its
8 property through acts and omissions colored by colored malice and/or accompanied by a wanton,
9 conscious, and willful disregard of the rights and safety of Plaintiff and Tribal members who
10 foreseeably might be harmed by such acts or omissions.

11 32. Defendants, despite their knowledge of the serious health and environmental effects
12 associated with exposure to toxic and hazardous substances, individually and together, released,
13 discharged, stored, handled, processed, disposed of and failed to remediate toxic and hazardous
14 substances at and surrounding the Mine Site, while failing to warn Plaintiff of the dangers such
15 activities posed.

16 33. Defendants, despite their knowledge of the serious health and environmental effects
17 associated with exposure to toxic and hazardous substances, and despite orders and warnings
18 from health and environmental regulators, individually and together, masked the true extent of
19 contamination, thereby enabling Defendants to avoid taking all appropriate steps to properly
20 remediate the toxic and hazardous substances or to mitigate dangers created by their release,
21 discharge, storage, handling, processing, disposal of and dumping of toxic and hazardous
22 substances.

23 34. Defendants, despite their knowledge of the serious health and environmental effects
24 associated with exposure to toxic and hazardous substances, and despite orders and warnings
25 from health and environmental regulators, individually and together, failed to properly remediate
26 these toxic and hazardous substances.
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B. Trespass

35. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this Complaint, as if fully set forth herein.

36. Defendants' wrongful conduct as set forth above, including but not limited to Defendants' intentional past, present and continuing acts and/or omissions, resulting in Defendants' intentionally depositing onto and/or intentionally failing to remove and/or to properly dispose of toxic and hazardous substances and intentionally allowing toxic and hazardous substances to remain on Plaintiff's property, surrounding environment and community resulted in the direct physical invasion of Plaintiff's property properties by toxic and hazardous substances.

37. The toxic and hazardous substances continue to contaminate Plaintiff's property and the surrounding environment, thereby exposing Plaintiff and Tribal members to the toxic and hazardous substances.

38. The invasion and exposure is ongoing and continuous. The presence of the hazardous and toxic substances on Plaintiff's property is unauthorized and unreasonable.

39. Defendants have neither sought nor obtained Plaintiff's consent to transport or store their toxic and hazardous substances and wastes on Plaintiff's property.

40. Defendants have intentionally allowed toxic and hazardous substances to enter and remain on the land in the possession of Plaintiff, and Defendants have intentionally failed to remove the toxic and hazardous substances from such land.

41. As a direct and proximate result of Defendants' misconduct as set forth herein, Plaintiff and Tribal members have suffered and continue to suffer economic losses, such as costs of medical monitoring and the loss of value to property, along with other damages.

42. Defendants are jointly and severally liable to Plaintiff for their acts and/or omissions.

43. Separate and apart from acting intentionally and/or negligently, at all relevant times, Defendants caused injury and damages to Plaintiff through acts and omissions colored by actual

malice and/or accompanied by a wanton, conscious, and willful disregard of the rights and safety of Plaintiff and Tribal members who foreseeably might be harmed by such acts or omissions. Defendants, despite their knowledge of the serious health and environmental effects associated with exposure to toxic and hazardous substances, individually and together, released, discharged, stored, handled, processed, disposed of and failed to remediate toxic and hazardous substances at and surrounding the Mine Site, while failing to warn residents of the dangers such activities posed.

44. Defendants, despite their knowledge of the serious health and environmental effects associated with exposure to toxic and hazardous substances, and despite orders and warnings from health and environmental regulators, individually and together, failed to properly remediate the toxic and hazardous substances, and in fact masked the true extent of contamination, thereby enabling Defendants to interfere with and avoid taking all appropriate steps to properly remediate the toxic and hazardous substances or to mitigate dangers created by their release, discharge, storage, handling, processing, disposal of and dumping of toxic and hazardous substances.

C. Battery

45. Plaintiff repeats and realleges each and every allegation contained in the preceding paragraphs of this complaint, as if fully set forth herein.

46. Defendants, by intentionally generating, discharging, transporting, disposing, failing to properly remediate or allowing the discharge of toxic and hazardous substances, and/or concealing knowledge of same, intentionally and willfully caused a direct, harmful and/or offensive contact with Plaintiff and Tribal members and thereby committed battery, and/or did so with a substantial certainty of such result.

47. As a direct and proximate result of Defendants' misconduct as set forth herein, Plaintiff and Tribal members have suffered and continue to suffer economic losses, such as costs of medical monitoring and the loss of value to their property, as well as other damages.

1 48. Defendants are jointly and severally liable to Plaintiff for their acts and/or omissions.

2 49. Separate and apart from acting intentionally and/or negligently, at all relevant times,
3 Defendants caused injury and damages to Plaintiff's property through acts and omissions colored
4 by colored malice and/or accompanied by a wanton, conscious, and willful disregard of the rights
5 and safety of Plaintiff and Tribal members who foreseeably might be harmed by such acts or
6 omissions.

7 50. Defendants, despite their knowledge of the serious health and environmental effects
8 associated with exposure to toxic and hazardous substances, individually and together, released,
9 discharged, stored, handled, processed, disposed of and failed to remediate toxic and hazardous
10 substances at and surrounding the Mine Site, while failing to warn Plaintiff of the dangers such
11 activities posed.

12 51. Defendants, despite their knowledge of the serious health and environmental effects
13 associated with exposure to toxic and hazardous substances, and despite orders and warnings
14 from health and environmental regulators, individually and together, masked the true extent of
15 contamination, thereby enabling Defendants to avoid taking all appropriate steps to properly
16 remediate the toxic and hazardous substances or to mitigate dangers created by their release,
17 discharge, storage, handling, processing, disposal of and dumping of toxic and hazardous
18 substances.

19 52. Defendants, despite their knowledge of the serious health and environmental effects
20 associated with exposure to toxic and hazardous substances, and despite orders and warnings
21 from health and environmental regulators, individually and together, failed to properly remediate
22 the toxic and hazardous substances.
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25 **D. Negligence**

26 53. Plaintiff repeats and realleges each and every allegation contained in the preceding
27 paragraphs of this Complaint, as if fully set forth herein.
28

1 54. Defendants, at all time's material hereto, acted through their respective officers,
2 employees, and agents, who in turn acted in the scope of their authority and employment in
3 furtherance of the business of Defendants.

4 55. As a result of Defendants' acts and omissions, as aforesaid, extensive contamination
5 has been documented on and around Plaintiff's property.

6 56. At all relevant times, Defendants knew or should have known that the toxic and
7 hazardous substances discharged and would eventually enter Plaintiff's and Tribal members'
8 persons, property, air, water, surface water, groundwater and surrounding environment.

9 57. At all relevant times Defendants, as owners and operators of the Mine Site, owed a
10 duty to Plaintiff to safely and properly release, discharge, handle, store, transport, process and
11 dispose of toxic and hazardous substances associated with the Mine Site, and to advise or warn
12 Plaintiff of the dangers emanating from the release, discharge, handling, storage, transportation,
13 processing and disposal of toxic and hazardous substances into the soil, surface water, air, dust,
14 groundwater and surrounding environment.
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16 58. At all relevant times, Defendants failed to safely and properly release, discharge,
17 handle, store, transport, process and dispose toxic and hazardous substances, and failed to advise
18 or warn Plaintiff of the dangers emanating from the release, discharge, handling, storage,
19 transport, processing and disposal of toxic and hazardous substances into the soil, surface water,
20 air, dust, groundwater and surrounding environment, in breach of their duties to Plaintiff.

21 59. Defendants further breached their duty to Plaintiff by failing to use reasonable care to
22 safeguard Plaintiff's property and the surrounding environment from injury or property damage
23 resulting from the release, discharge, handling, storage, transport, processing and disposal of
24 toxic and hazardous substances into the soil, surface water, air, dust, groundwater and
25 surrounding environment.
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1 60. As a direct and proximate result of Defendants' misconduct as set forth herein,
2 Plaintiff and Tribal members have suffered and continue to suffer economic losses, such as costs
3 of medical monitoring and the loss of value to their property.

4 61. Defendants are jointly and severally liable to Plaintiff for their acts and/or omissions.

5 62. At all relevant times Defendants caused injury and damages to Plaintiff through acts
6 and omissions colored by actual malice and/or accompanied by a wanton, conscious, and willful
7 disregard of the rights and safety of Plaintiff and Tribal members who foreseeably might be
8 harmed by such acts or omissions.

9 63. Defendants, despite their knowledge of the serious health and environmental effects
10 associated with exposure to toxic and hazardous substances, individually and together, released,
11 discharged, stored, handled, processed, disposed of and failed to remediate toxic and hazardous
12 substances at and surrounding the Mine Site, while failing to warn residents of the dangers such
13 activities posed.

14 64. Defendants, despite their knowledge of the serious health and environmental effects
15 associated with exposure to toxic and hazardous substances, and despite orders and warnings
16 from health and environmental regulators, individually and together, masked the true extent of
17 contamination, thereby enabling Defendants to avoid taking all appropriate steps to properly
18 remediate the toxic and hazardous substances or to mitigate dangers created by their release,
19 discharge, storage, handling, processing, disposal of and dumping of toxic and hazardous
20 substances.

21 65. Defendants, despite their knowledge of the serious health and environmental effects
22 associated with exposure to toxic and hazardous substances, and despite orders and warnings
23 from health and environmental regulators, individually and together, failed to properly remediate
24 the toxic and hazardous substances.
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1 **E. Nuisance**

2 66. Plaintiff repeats and realleges each and every allegation contained in the preceding
3 paragraphs of this Complaint, as if fully set forth herein.

4 67. Defendants' intentional past, present and/or continuing acts and/or omissions,
5 constitute a nuisance in that Defendants used, have used, and continue to use their property and
6 Plaintiff's property in a manner that has resulted in an unreasonable burden on Plaintiff and
7 Tribal members in the form of personal harm, inconvenience, annoyance, substantial and
8 unreasonable interference with use and enjoyment of their land and discomfort incidental to
9 contaminant exposure.
10

11 68. Defendants' intentional past, present and/or continuing activities, acts and/or
12 omissions at and near the Mine Site constitute a private nuisance resulting in a substantial and
13 unreasonable interference with Plaintiff's right to the exclusive use and enjoyment of its property
14 through the invasion of toxic and hazardous substances on their properties and into the
15 surrounding environment, thereby exposing Plaintiff and Tribal members to toxic and hazardous
16 substances and substantially and unreasonably interfering with Plaintiff's free use and enjoyment
17 of its property.
18

19 69. Defendants' intentional past, present and/or continuing acts and/or omissions,
20 resulting in the intentional depositing onto and/or failure to remove or properly dispose of toxic
21 and hazardous substances and allowing toxic and hazardous substances to remain on Plaintiff's
22 property, surrounding environment and community, constitutes a nuisance in that Defendants
23 have intentionally used their property in a manner that has unreasonably interfered with
24 Plaintiff's property interests as well as Plaintiff's and Tribal members' health and safety.

25 70. Defendants knew that the invasion of toxic and hazardous substances onto Plaintiff's
26 property was substantially certain to result from their actions and/or omissions, as aforesaid.
27 This interference with Plaintiff's use and enjoyment of its property is unreasonable, unwarranted
28 and unlawful.

1 71. As a direct and proximate result of Defendants' misconduct as set forth herein,
2 Plaintiff and Tribal members have suffered and continue to suffer economic losses, such as costs
3 of medical monitoring and the loss of property value to their property, as well as other damages.

4 72. Defendants are jointly and severally liable to Plaintiff for their acts and/or omissions.

5 73. The nuisance that Defendants created is a continuing nuisance in that it remains
6 unabated.

7 Separate and apart from acting intentionally and/or negligently, at all relevant times, Defendants
8 caused injury and damages to Plaintiff's property through acts and omissions colored by actual
9 malice and/or accompanied by a wanton, conscious, and willful disregard of the rights and safety
10 of Plaintiff and Tribal members who foreseeably might be harmed by such acts or omissions.

11 74. Defendants, despite their knowledge of the serious health and environmental effects
12 associated with exposure to toxic and hazardous substances, individually and together, released,
13 discharged, stored, handled, processed, disposed of and failed to remediate toxic and hazardous
14 substances at and surrounding the Mine Site, while failing to warn residents of the dangers such
15 activities posed.

16 75. Defendants, despite their knowledge of the serious health and environmental effects
17 associated with exposure to toxic and hazardous substances, and despite orders and warnings
18 from health and environmental regulators, individually and together, intentionally masked the
19 true extent of contamination, thereby enabling Defendants to avoid taking all appropriate steps to
20 properly remediate the toxic and hazardous substances or to mitigate dangers created by their
21 release, discharge, storage, handling, processing, disposal of and dumping of toxic and hazardous
22 substances.

23 76. Defendants, despite their knowledge of the serious health and environmental effects
24 associated with exposure to toxic and hazardous substances, and despite orders and warnings
25 from health and environmental regulators, individually and together, intentionally failed to
26 properly remediate the toxic and hazardous substances.
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1
2 **JURY TRIAL DEMAND AND PRAYER FOR RELIEF**

3 **WHEREFORE**, Plaintiff demands a trial by jury as to all claims so triable in this action,
4 and thereupon requests that the Court enter an Order and/or Judgment against Defendants, jointly
5 and severally, as follows:

- 6 A. Judgment in Plaintiff's favor against Defendants in an amount to be determined at
7 trial, including compensatory and special damages; accrued prejudgment and post-
8 judgment interest at the highest rate permitted by law; costs of suit; and attorneys'
9 fees;
- 10 B. Judgment in Plaintiff's favor against Defendants for punitive damages in the highest
11 amount allowable by law;
- 12 C. Order for Defendants to bear the costs of medical monitoring, including, but not
13 limited to, testing, examination, preventative and diagnostic screening for conditions
14 that can result from, or potentially result from, exposure to arsenic, uranium, and other
15 toxic and hazardous materials;
- 16 D. Judgment in favor of Plaintiff against Defendants for costs necessary for and incurred
17 in medical monitoring, in an amount to be proven at trial, including interest, expert
18 fees and costs of this suit; and
- 19 E. Such other relief as the law and equity may justify, and which this Court deems just
20 and proper.
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23 DATED this 17th day of August, 2017.
24

25 By: 

26 Michael Angelovich*
27 mangelovich@nixlaw.com
28 Austin Tighe*
atighe@nixlaw.com

NIX, PATTERSON & ROACH, LLP

3600 N Capital of Texas Hwy
Suite 350
Austin, Texas 78746
Telephone: (512) 328-5333
Facsimile: (512) 328-5335

**Pro Hac Vice to be Filed*

Robert F. Saint-Aubin
Nevada State Bar No. 909
rfsaint@me.com
Saint-Aubin Chtd.
3753 Howard Hughes Pkwy Suite 200
Las Vegas, NV 89169
702-985-2400
Facsimile: (949) 496-5075

ATTORNEYS FOR PLAINTIFF
YERINGTON PAIUTE TRIBE